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C O N F I D E N T I A L YEREVAN 000403

SIPDIS

USDOJ/OPDAT FOR CARL ALEXANDRE AND CATHERINE NEWCOMBE

E.O. 12958: DECL: 06/09/2019

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SUBJECT: OPPOSITION OLIGARCH'S ATTORNEYS FACE INVESTIGATION
AND POSSIBLE DISBARMENT

REF: 08 YEREVAN 369

Classified By: DCM Joseph Pennington. Reason 1.4 (b,d)

SUMMARY

1. (C) Three Armenian defense attorneys are under criminal investigation for their conduct while representing two defendants in a tax evasion prosecution involving a business owned by a leading opposition figure. The attorneys refused to participate in the trial after they discovered that the trial judge had allegedly forged an important court document, and sought unsuccessfully to have the judge's actions investigated. The Armenia Human Rights Defender has asked the Constitutional Court to have the criminal code provision declared unconstitutional, as it applies to defense attorneys but not to prosecutors. END SUMMARY.

THREE SLICES TO GO

2. (C) Armenian defense attorneys Artur Grigorian, Diana Grigorian, and Ara Zacharian told RLA they fear they will soon be arrested and charged with the crime of "Disrespect of a Court," for which they could receive a one month jail sentence and loss of their licenses. The attorneys were representing two defendants in the politically-motivated "Pizza di Roma tax evasion" case (reftel). The two defendants were a manager and waitress who had worked at a pizza restaurant owned by oligarch Khachatur Sukiasian, who publicly supported the opposition candidate in last year's presidential election and soon found himself hit with inspections by the tax and customs services.

3. (SBU) In 2008, while the case was pending, the defense attorneys claimed that a document relating to their clients' detention had been forged by the trial court. The trial court denied all defense motions to verify the accuracy of the document, and the attorneys walked out of the courtroom over the judge's warning. The case ultimately went to trial, with substitute attorneys, and the two defendants were convicted. The police are now investigating the conduct of the attorneys, but there is no investigation of the conduct of the judge.

4. (SBU) The Ombudsman of Armenia has applied to the Constitutional Court to declare the statute on "Disrespectful Treatment of a Court" unconstitutional, as it applies only to witnesses, victims, and defense attorneys, not prosecutors. In so doing, it constrains the ability of the defense to forcefully represent its client while imposing no such constraint on prosecutors.

5. (SBU) The Chairman of the Criminal Division of the

Cassation Court of Armenia had forwarded the defense attorneys' complaint against the judge to the Prosecutor General, but the investigation was modified such that it became an inquiry only into the attorneys' conduct, with no investigation into their allegations against the judge. This same Cassation Court Chairman later approached the defense attorneys and inquired whether they would accept an offer to withdraw the case on a non-acquittal basis, meaning that no charges would be pursued but the defense attorneys would not be exonerated. The defense attorneys have refused this offer of leniency.

COMMENT

¶6. (SBU) This investigation into the defense attorneys is the latest in a series of measures designed to ensure that the defense bar "knows its place," i.e., that everyone is entitled to a vigorous defense as long as it does not interfere with the prosecution and conviction. Although the criminal penalties for "disrespectful treatment" are relatively lenient (one month's incarceration), it can also result in the attorney losing his license to practice law. Accordingly, it has a true chilling effect on the defense bar; defense attorneys must always watch what they say. USDOJ will raise this issue at its next judicial conference, scheduled for July, in which two US federal judges will engage with their Armenian counterparts. END COMMENT.
YOVANOVITCH